THE WHITE HOUSE

WASHINGTON

January 20, 1956

Dear Mr. Jones:

This is in reply to your letter of December 21, requesting the views of our office on the Central Intelligence Agency's draft bill "To amend the CIA Act of 1949, as amended, and for other purposes."

After a careful review of the proposal, we have concluded that there are a number of sections which appear to be in conflict with policies established or proposed by the Executive Branch. These sections are:

A. Section 2 - This section would make applicable all the leave, travel, transportation, hospitalization, allowances, etc., provisions of Section 5 of the CIA Act to employees assigned anywhere outside the United States instead of foreign areas only.

Although it is possible that because of its unique situation, CIA has compelling reasons for requesting the same benefits for territorial employees as are now available only to employees serving in foreign countries, there is not sufficient justification in the material they have presented to warrant such a change. This proposal would set the territorial employees of CIA apart and establish for a single agency a new concept of treating all overseas employees of that agency alike whether serving in foreign countries or in the Territories and possessions, without regard to employees of other agencies. This proposal would violate the established policy of providing like benefits to employees of all agencies serving under like circumstances. On the basis of the material presented, there is insufficient justification for modifying present policy. Accordingly, we believe that CIA should not include this provision in its legislative program.

B. Section 6 - This section amends present CIA Act provisions authorizing the agency to order persons to continental United States or its Territories and possessions for leave purposes to include non-U. S. citizen employees, and to delete obsolete references to sections (on leave) of the U. S. Code.

By including reference to aliens, this section establishes a delineation no where previously found. Since Section 10(a)(1) of the CIA Act of 1949 authorizes expenditures for personal services "without regard to limitations on types of persons to be employed", it is presumed that the term "officers and employees" includes both citizens and non-citizens. If this is the case, the proposed wording could be interpreted to mean that aliens would be excluded from the other allowances and medical benefits of the Act, and would hinder rather than help CIA. It is recommended that the section be omitted.

Although section 6 was proposed for the purpose of covering aliens, it raises another important question of policy. It has been one of our objectives to consolidate the various separate authorities for providing allowances, medical care, home leave, etc., into single statutes uniformly applicable to all agencies on a Government-wide basis. Authority presently exists in P. L. 737, enacted after the CIA Act, to permit the heads of agencies to pay the expenses of round trip travel for their overseas employees (without reference to citizenship) to places of residence for leave purposes. Further, the proposed language is more restrictive since it limits return to the U. S., its Territories and possessions for leave purposes whereas P. L. 737 permits return to actual place of residence. It is suggested that since the proposed amendment, and the section of the current law which it amends are unnecessary, that CIA consider deleting them.

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C. Section 9 - This section amends present authority (which was patterned after a similar provision of the Foreign Service Act) to permit the agency to pay the cost of treatment of an illness or injury requiring hospitalization for dependents as well as employees. The payment will be made for dependents only where illness or injury occurs through circumstances directly related to duties or duty station of officer or employee. The provision applies to service anywhere outside continental United States and not merely foreign areas.

We are in complete agreement with the CIA's objective in providing some type of medical care for dependents. We do not believe, however, that this is the proper approach. In the first place, the provisions of this section as they apply to dependents are more liberal than any benefits now available to the dependents of civilian employees in any agency of the Government. Under present circumstances this would appear to us to be an unrealistic goal. Our experience with a similar proposal indicates that it would be opposed by the American Medical Association, the Department of Defense and a strong segment of Congress.

Secondly, it is also in conflict with our present thinking on the health and medical program, i.e., we are proposing that the Government contribute to a group health insurance plan to cover major medical expense. The cost of out-patient medical care is to be shared by the Government and the employee under a separate arrangement.

Finally, we do not think it is practical. The problems involved in determining a causal connection between the illness or injury and the place and nature of the employee's assignment could result in a burdensome administrative problem. Only in a small number of cases could it be said with absolute assurance that the overseas service of a patient had no influence at all on the course of an illness. Unless a rather liberal criterion were established a large number of complaints could be received from employees who feel that their dependents' illnesses were due to overseas service. Such a situation would have an adverse affect on morale.

For these reasons, we are opposed to this section, as it is presently set forth. We would not object, however, to an interim proposal which more closely corresponds to our overseas health and medical proposals for the Executive Branch as a whole.

D. Section 12 - This section would delete from the CIA bill reference to the particular sections of the Foreign Service Act under which allowances are payable and would include the specific authorities in the CIA bill. The language is copied from the Foreign Service Act, as amended, by P. L. 22.

This proposal to incorporate into the CIA Act the basic authority for allowances is contrary to our proposal to codify existing allowances authorities. Since the proposed wording is patterned after the wording in the Foreign Service Act, and CIA's current legislation authorizes the Director to grant allowances "in accordance with the provisions of Sections 901 (1) and 901(2) of the Foreign Service Act of 1946", it would seem that CIA would accomplish the same purpose by amending its current law to add "as amended" after "Foreign Service Act of 1946."

Similarly, there is no need for the new sub-section 5(b)(3) providing basic authority for the agency to pay post differentials since general authority is now available under the provisions of 5 U. S. Code 118-h.

We would be opposed to this proposal unless CIA can more adequately support the need for separate authority in their Act.

E. Section 13 - This section is new and provides that allowances authorized them under the Act be excluded from gross income for income tax purposes. This is now the case with the allowances authorized and available under the Foreign Service Act which is currently applicable to CIA.

If it is determined that CIA should have a separate allowance authority then it is appropriate that CIA personnel have their allowances excluded from income tax coverage. However, if the proposed Section 12 is not permitted to remain, this section should be deleted also.

F. Section 17 - This section includes in the CIA Act the following special retirement provisions for its employees: (1) 1½ years retirement service credit for each year of service outside the continental United States for CIA employees since its establishment; (2) reduction of retirement ages as provided in the Retirement Act by six months for each year of service for CIA outside continental United States with provision that voluntary retirement not be allowed until fifty; (3) reduction of base age for computing percentage reduction in annuities on the same basis as in (2) above.

This section would give CIA employees benefits not available to other overseas personnel. It would be a further fragmentation of retirement provisions at a time when the objective is consolidation.

It should be noted that the provisions of the Foreign Service Act are only remotely similar to this proposal. Under the Foreign Service Act of 1946, as amended, persons serving at unhealthful posts may receive 1½ years credit for each year of such service provided they were not paid a hardship differential for the same period. The CIA proposal is applicable to all overseas employees rather than just those at hardship posts and contains no restrictions about receipt of salary differentials.

Our proposed amendments to the Civil Service Retirement Act tentatively provide a 2% unit of credit for all civilian service in overseas areas contingent upon a minimum of 10 years service. Under the circumstances, we believe the CIA proposal to be in conflict with our approach and object to it on that basis.

In addition to the above comments, we are presenting the following more specific comments and suggested minor wording changes for CIA consideration:

A. Section 3 - This section deletes requirement for determination of emergency conditions before agency can pay cost of storing furniture and household effects.

Since Section 241(b) of our proposed Allowances Bill would amend this same provision of the CIA Act, it is suggested that they use the wording of Section 241(b) in their proposed bill.

B. Section 8 - This section amends present authority (which was patterned after a similar provision in the Foreign Service Act) to pay transportation expenses when necessary for purposes of hospitalizing an employee in case of illness or injury to: (1) apply in connection with any assignment outside the continental United States rather than foreign countries as at present; (2) make the authority available for dependents of employees who accompany employees on assignments outside continental United States.

We would concur with this proposal if it were revised to exclude Territories. (See previous comment)

Suggested Changes in Wording: Line 1 - Substitute a comma for "or" between "illness or injury" and add after "injury" the words "or maternity." (This change will more nearly conform to our proposed Medical Bill.)

Line 5 - Delete "on such assignment" and substitute therefor the word "overseas." (Dependents may be overseas without necessarily "accompanying" employee on immediate assignment.)

Line 17 - (last line) Insert words "compensation and" between "the travel;" and add "or attendants" at end of sentence. In some cases, such as mental patients, it may be necessary to employ a professional person to accompany the individual and in very bad cases it is possible that more than one attendant will be needed.

C. Section 14 - This section is new and provides for payment of a $1,000 death gratuity upon official notification of the death of an employee under regulations prescribed by the Director, in addition to any other benefits that might be due the dependents of the employee.

Suggested Changes:

1. As presently worded, the provisions of Section 5 of the CIA Act of 1949 are limited to employees assigned to permenent duty stations outside continental U. S. and its Territories and possessions. It would seem that persons temporarily assigned overseas should also be eligible for the gratuity benefits.

2. It is suggested that some guidelines or standards be included in the bill which would limit circumstances under which the gratuity could be paid.

3. Section 14(d)(2)(c) - We are concerned with what class of dependents would be included here that are not specified in (a), (b), (d) or (e).

4. Section 14(d)(3) is technically not within our jurisdiction, but appears to be too all-inclusive in its exemptions.

D. Section 15 - This section substitutes (35) for the numerical (15) restriction on the employment of retired armed forces personnel.

We have no question on the proposed amendment; however, the remainder of the original section provides that while serving, such personnel will be entitled to receive only the compensation of his position with the agency, or his retired pay, which ever he may elect.

Inasmuch as Public Law 239, 84th Congress, provides that retired commissioned officers, employed by the Government, may have a combined annual rate of compensation for both retired and Federal pay up to $10,000 per year, it is suggested that CIA may wish to revise section 6(f)(1) to permit eligible employees to take advantage of this recent liberalization.

If you have any questions or desire additional information, we will be happy to discuss the proposal with you or your staff.

Sincerely,

(s) Philip Young

Philip Young

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